HONOURABLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION No.26676 OF 2005

Between:

G. Sreeramulu, S/o. Nadipi Siva Nagaiah,

Hindu, aged about 35 years, Occ: Agent,

Ashok Tailors, D.No.7/3387, Sivalayam Street,

Proddatur Town, Kadapa District.

.. Petitioner

AND

S. Ramaiah, S/o. S.V. Krishnaiah Setty,

Hindu, aged about 50 years,

R/o.D.No.3-550-A, Iyyapu Nilayam,

Cooperative Colony, Proddatur Town,

Kadapa District.

.. Respondent

::ORDER::

Counsel for the petitioner : Mr. L.J. Veera Reddy

Counsel for the Respondent : Not present

-

14th December, 2005

-

-

-

-

-

-

Per G.S. Singhvi, CJ

This petition is directed against order dated 20-07-2005 passed by District Consumer Forum, Kadapa in Consumer Dispute No.105 of 2004.

We have heard Sri L.J. Veera Reddy, learned counsel for the petitioner, and examined the record.

Respondent S. Ramaiah filed an application under
Section 12 of the Consumer Protection Act, 1986 (for short 'the Act') for awarding of compensation amounting Rs.90,000/- with interest of 24%, Rs.10,000/- towards mental agony and Rs.1,000/- towards costs by alleging that the respondent (petitioner herein) who is running business of Chit Fund has not returned the amount deposited by him. In the counter-affidavit filed by him,
the petitioner denied the allegation contained in the complaint.
He claimed that the complaint was bogus and he was not liable to pay the amount specified in the complaint. By the impugned order, District Consumer Forum, Kadapa allowed the complaint filed by the respondent and directed the petitioner to pay him Rs.90,000/- with interest @ 6% from the date of complaint and costs of Rs.500/-.

At the commencement of hearing, we enquired from the learned counsel for the petitioner as to why his client has not availed the statutory remedy of appeal in terms of Section 15 of the Act. In reply, Sri L.J. Veera Reddy fairly conceded that the

remedy of appeal is available to his client under Section 15 of the Act, but submitted that the same cannot be treated as an effective alternative remedy because the condition enumerated in second proviso to that section requiring the appellant to deposit 50% of the amount specified in the impugned order is too onerous.

In our opinion, there is no substance in the argument of the learned counsel. It is well-settled that when a remedy of appeal is provided by the Statute, the legislature can impose reasonable conditions for availing that remedy and such conditions cannot be termed as onerous. In this context, we may usefully refer to the judgments of the Supreme Court in **Anant Mills Co. Ltd. v. State of Gujarat** and **Shyam Kishore v. Municipal Corporation of Delhi.** It is also well-settled that in exercise of jurisdiction under Article 226 of the Constitution of India, the Court will be loth to entertain writ petition if an effective alternative remedy is available to the petitioner. Few exceptions to this rule have been enlisted in **M/s. Baburam Prakash Chandra Maheshwari v. Zila Parishad, Muzaffarnagar** and reiterated in **Harbanslal Sahnia and another v. Indian Oil Corporation Ltd..** These are where the action complained of is vitiated due to violation of rules of natural justice or infringes the fundamental right of the petitioner or is without jurisdiction or the statute under which the action has been taken is claimed to be beyond the legislative competence of the State or is violative of any constitutional provision. The petitioner's case does not fall in any of these exceptions. Therefore, we do not find any valid ground to entertain the writ petition.

For the reasons stated above, the Writ Petition is dismissed.

However, liberty is given to the petitioner to avail the remedy of appeal. It shall also be open to the petitioner to file an application for condonation of delay in filing the appeal. If any such application is filed, the State Commission is expected to consider and decide the same on merits keeping in view the fact that the petitioner had filed writ petition under a misconceived notion that the remedy of appeal is not an effective alternative remedy.

G.S. SINGHVI, C.J.

December 14, 2005

C.Y. SOMAYAJULU, J

PV/SVS